IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 20444 of 2006
With
SPECIAL CIVIL APPLICATION No. 20813 of 2006
To
SPECIAL CIVIL APPLICATION No. 20818 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE JAYANT PATEL

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

LAXMICHAND ASHARIA CHHEDA & 7 - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

==========

Appearance :
MR BY MANKAD for Petitioner(s) : 1 - 7, 7.2.1, 7.2.2, 7.2.3, 7.2.4, 7.2.5, 7.2.6, 7.2.7,7.2.8 - 8, 8.2.1, 8.2.2, 8.2.3, 8.2.4,8.2.5
MR DA DESAI, AGP for Respondent(s) : 1,
UNSERVED-WANT OF TIM for Respondent(s) : 2,
MR CL SONI for Respondent(s) : 3,

==========

CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL

Date : 27/12/2006

COMMON ORAL JUDGMENT

1. Rule. Mr. Desai, learned AGP waives service of rule for the State Government and Mr. Soni for respondent No.3.

2. In all the petitions, the challenge made by the petitioners is against the order dated 30.05.2003 passed by the State Government in revisional jurisdiction, copy whereof is produced at Annexure-C.

3. Heard Mr. Mankad for the petitioners, Mr. Desai, learned AGP for the State Authorities and Mr. Soni for respondent No.3.

4. Upon hearing the learned counsel appearing for both the sides, it appears that there is no dispute on the point that some of the petitioners who were parties to the proceedings in the revision were not served with the notice of the State Government.

5. Mr. Desai, learned AGP has made available the record of the State Government in revisional jurisdiction, which refers to the return of the envelope and Mr. Desai, has not been able to show that the intimation was already received by the parties and inspite of the same, they did not remain present. On the contrary, the envelope appears to have come back with the endorsement of 'left' so far as Laxmichand

Chheda is concerned and so far as Harijan Ranbai Khamu is concerned, it has come back with the endorsement that 'not available'. Therefore, it does appear that without hearing the petitioners, the order has been passed by the State Government and on the said aspects, there is no dispute.

6. It is hardly required to be stated that in exercise of the revisional jurisdiction, the State Government when exercises the quasi judicial power, has to give the opportunity of hearing to the parties to the proceedings. Since hearing has not been given, the order, which is impugned in this petition would be in breach of principles of natural justice and consequently, the order deserves to be quashed and the matter will be required to be reheard by the State Government for passing a fresh order after giving opportunity of hearing to the parties to the proceedings.

7. Considering the facts and circumstances, as the matter is of 1997, the petitioners themselves will appear before the State Government and the address mentioned by the petitioners in the present petitions shall be treated as address of the concerned parties, including the legal heirs of Ratanben Asaria Chheda. The petitioners shall file their appearance with the reply, if any, to the revision proceedings within a period

of six weeks from today. Thereafter, the State Government shall pass the appropriate orders after giving opportunity of hearing to the parties to the proceedings or their representatives, as the case may be.

8. In view of the above, the impugned order (Annexure-C) is quashed on the ground of breach of principles of natural justice. It is further directed that the revision shall stand restored to the file of the State Government. The petitioners shall file their appearance before the State Government within six weeks from today. The State Government thereafter shall decide the revision afresh after giving opportunity of hearing to the parties to the proceedings and shall pass the appropriate orders in accordance with law, preferably within a period of four months from today.

9. Petitions are allowed to the aforesaid extent. Rule made absolute accordingly. Considering the facts and circumstances, there shall be no order as to costs.

(JAYANT PATEL, J.)

*bjoy